

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL BELL TELEPHONE COMPANY)	
)	
_____)	CASE NO.
)	89-129
ALLEGED FAILURE TO COMPLY WITH)	
COMMISSION REGULATIONS)	

O R D E R

This case arises out of a Commission Staff investigation of an accident involving South Central Bell Telephone Company ("SCB") facilities and concerning allegations that SCB failed to comply with Commission Regulation 807 KAR 5:061.

On March 17, 1989, a large truck travelling north on 25th Street in Louisville, Kentucky, clipped an SCB overhead telephone service drop wire, leaving it dangling in the street. A southbound automobile then snagged the drop wire, causing it to break from its mooring on Elizabeth Sachleben's residence and strike Ms. Sachleben. Ms. Sachleben fell to the ground and was seriously injured.

Commission Staff investigated the accident and, on April 5, 1989, issued an Accident Investigation Report in which it alleged that the drop wire was not in compliance with the minimum clearance standards of the National Electrical Safety Code (1981 ed.) ("NESC"). The report further alleged that the drop wire,

though now repaired and reinstalled, still failed to comply with these standards.

Upon receipt of this report, the Commission ordered SCB to show cause why it should not be penalized for its alleged failure to comply with Commission regulations. SCB submitted a written response. An informal conference between SCB and Commission Staff was held on July 19, 1989 to discuss the accident. Thereafter, the Commission ordered SCB to provide certain information on the accident and SCB's actions following the accident. This information has been provided. SCB has waived its right to a hearing and has requested that the matter be decided on the existing record.

Commission Regulation 807 KAR 5:061, Section 2, requires all telephone utilities to construct and maintain their facilities in accordance with the NESC. NESC Rule 232A requires communications conductors which overhang streets subject to truck traffic to have a minimum vertical clearance of 18 feet.

SCB denies any knowledge of the drop wire's height at the time of its installation or the accident. It acknowledges that an SCB technician installed the drop wire on February 2, 1989. Although SCB's operating procedures required the drop wire's vertical clearance to be measured after its installation and measuring equipment was available, its technician made no clearance measurements.¹ Instead, he made a visual inspection of

¹ Bell System Practices Section 620-210-011. SCB Response to Item 7 of the Commission's Order of October 11, 1989.

the drop wire and determined that "the wire was at the same height as other utility wires in the area. He also observed that traffic, including a school bus, could pass under the drop wire with more than adequate clearance."²

Measurements of the accident site taken by Commission Staff and uncontested by SCB, however, clearly show that the drop wire was not installed in accordance with NESC standards. After being relocated, the drop wire overhung 25th Street. On the west side of 25th Street, it was attached to Ms. Sachleben's residence. Its attachment point was at a height of 16 feet, 7 inches. On the east side of 25th Street, the drop wire was connected to the midspan of a telephone cable running parallel to 25th Street. The height of the telephone cable at the drop wire's point of attachment was 15 feet, 2 inches. Without messengers or some other form of support, the drop wire's vertical clearance from the center of the street could not have exceeded 16 feet, 7 inches. The drop wire was not supported by such equipment.

Furthermore, the drop wire passed under an electric service drop to the building adjacent to Ms. Sachleben's residence. At the west curb of 25th Street, this electric service drop wire had a vertical clearance of only 16 feet, 2 inches. SCB practice requires a minimum of 12 inches clearance between electric and

² SCB Response to Accident Investigation Report at 4.

telephone service drop wires.³ If the SCB technician followed this practice, the telephone service drop wire's vertical clearance at the center of 25th Street was significantly less than 16 feet, 7 inches.

Following the accident on March 17, 1989, SCB reinstalled the drop wire but did not provide for sufficient clearance. As measured by Commission Staff on March 30, 1989, the reinstalled drop wire's clearance over the center of 25th Street was only 17 feet, 4 inches -- 8 inches below NESC standards. SCB was aware of this clearance problem. Its employees measured the drop wire's clearance on March 18, 1989 and also found it to be 17 feet, 4 inches.⁴ It did not raise the drop wire, however, until June 1, 1989 -- 6 days after these proceedings began.⁵

SCB offers several explanations for its failure to reinstall the drop wire at the proper clearance. Instead of using a midspan connection as before, SCB technicians on March 17, 1989 connected the drop wire to the telephone cable at a nearby utility pole. SCB maintains that raising the drop wire on the utility pole would have placed it within 40 inches of an electric transformer and thus in conflict with an internal practice.⁶ Believing that the

³ Bell South Practice Section 462-350-213 SV.

⁴ SCB Response to Item 18 of the Commission's Order of October 11, 1989.

⁵ SCB Response to Accident Investigation Report at 3-4.

⁶ Bell South Practice Section 462-070-015.

lower clearance did not create an unsafe condition as "the SCB wire was well above the height of the other utility facilities crossing the road," SCB chose to follow its internal practice.⁷ SCB also claims that ongoing accident investigation prevented alteration of the accident site. Finally, it cites its inability to obtain Ms. Sachleben's permission to reroute SCB facilities on her home.⁸

These explanations are unsatisfactory. NESC has been adopted by Commission regulation and thus has the force and effect of law. See Union Light, Heat & Power v. Pub. Serv. Comm'n, 271 S.W.2d 361 (Ky. 1954). Where a conflict between a Commission regulation and an internal utility practice occurs, the Commission regulation must control. The NESC allows the placement of telephone cables or drop wires within 40 inches of an electric transformer. It does not in this instance permit a vertical clearance of less than 18 feet. SCB chose to ignore the law and follow its own internal practice.

Neither SCB's accident investigation nor its inability to contact Ms. Sachleben prevented correction of the low clearance problem. After the accident, SCB significantly altered the accident scene by reconnecting the downed drop wire to the telephone cable at a utility pole rather than at midspan. Raising

⁷ SCB's Response to Item 5(a) of the Commission's Order of December 6, 1989.

⁸ SCB's Response to Item 4(b) of the Commission's Order of December 6, 1989.

the drop wire on this pole would not have disturbed the accident scene any further nor would it have required Ms. Sachleben's approval. Furthermore, SCB could have temporarily raised its drop wire closer to the electric transformer to ensure the proper clearance for the drop wire until Ms. Sachleben's permission to alter the SCB facilities on her residence was obtained.

The Commission finds no acceptable justification for SCB's actions. The NESC contains the "minimum provisions considered necessary for the safety of employees and the public (emphasis added)." NESC Rule 010 (1981 ed.). Strict compliance with NESC, therefore, must be maintained.

After review of the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. On February 2, 1989, an SCB technician relocated the telephone service drop wire serving the residence of Elizabeth Sachleben, which is located at 422 N. 25th Street in Louisville, Kentucky. After relocating the drop wire, the technician failed to measure the drop wire's vertical clearance although measuring equipment was available and SCB operating practices required such measurement.

2. After the drop wire was relocated, it overhung 25th Street. On the west side of 25th Street, the drop wire was attached to Ms. Sachleben's residence. At this point of attachment, it was 16 feet, 7 inches above ground level. On the east side of 25th Street, the drop wire was connected at mid-span

to a telephone cable running parallel to 25th Street. The height of the drop wire at this point of attachment was 15 feet, 2 inches.

3. The drop wire was not supported by messengers or any other equipment.

4. As this drop wire ran from the telephone cable mid-span to Ms. Sachleben's residence, it passed under an electric service drop wire running to 426 N. 25th Street, the house adjacent to Ms. Sachleben's residence. At the west curb of 25th Street, this electric service drop wire's vertical clearance was 16 feet, 2 inches.

5. As installed on February 2, 1989, SCB's drop wire had a vertical clearance of less than 18 feet at the center of 25th Street and a vertical clearance of less than 16 feet at the western curb of 25th Street.

6. 25th Street is subject to truck traffic.

7. NESC Rule 232A requires a communications service drop have a vertical clearance of at least 18 feet at the center of a street subject to truck traffic and a vertical clearance of at least 16 feet at the side of such streets. See NESC Table 232-1, footnote 6.

8. As it existed from February 2 to March 17, 1989, the SCB drop wire was neither installed nor maintained in accordance with NESC Rule 232A.

9. On March 17, 1989, a truck travelling on 25th Street clipped the SCB drop wire, leaving it dangling in the street. An

automobile then snagged it causing it to break from its mooring on Ms. Sachleben's residence.

10. On March 17, 1989, SCB technicians reinstalled the drop wire. As reinstalled, the SCB drop wire had a vertical clearance of 17 feet, 4 inches at the center of 25th Street.

11. SCB did not reinstall the drop wire on March 17, 1989 in accordance with NESC Rule 232A.

12. On March 18, 1989, SCB employees measured the drop wire's vertical clearance and discovered that the drop wire did not comply with NESC standards.

13. Despite being aware of the drop wire's failure to meet NESC standards, SCB allowed its drop wire to remain in place until June 1, 1989.

14. On June 1, 1989, SCB raised the drop wire to ensure its vertical clearance at the center of 25th Street was no less than 18 feet.

15. From March 17 to June 1, 1989, the SCB drop wire was not maintained in accordance with NESC Rule 232A.

16. Commission Regulation 807 KAR 5:061, Section 2, requires all telephone utilities to construct and maintain their facilities in accordance with NESC standards.

17. On February 2, 1989, SCB violated Commission Regulation 807 KAR 5:061, Section 2, by failing to install and maintain the telephone service drop wire.

18. For its violation of Commission Regulation 807 KAR 5:061, Section 2, on February 2, 1989, SCB should be assessed a penalty of \$500.

19. On March 17, 1989, SCB violated Commission Regulation 807 KAR 5:061, Section 2, by knowingly failing to install and maintain its telephone service drop wire in accordance with NESC standards. This violation continued until June 1, 1989.

20. For its repeat violation of Commission Regulation 807 KAR 5:061, Section 2, SCB should be assessed a penalty of \$1,000.

IT IS THEREFORE ORDERED that:

1. Penalties in the total amount of \$1500 are assessed against SCB for its violations of Commission Regulation 807 KAR 5:061, Section 2.

2. SCB shall pay these penalties within 20 days of the date of this Order by certified or cashier's check made payable to "Treasurer, Commonwealth of Kentucky." Said check shall be delivered to Office of General Counsel, Public Service Commission of Kentucky, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 31st day of May, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director